

Case Brief

Con Law, checks on judicial power

Carlson, 2/14/15

Identity of Case

Nixon v. United States, 506 U.S. 224 (1993)

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Summary of Facts/Procedural History

Judge Nixon is arrested on some charges and put in prison. He is a federal judge with a lifelong commission, and he refuses to resign his commission so the gov't is actually still paying him his salary while he is in jail. The house of representatives decides to impeach him, and his impeachment goes before the senate. A senate committee hears the evidence against him, and it submits memos to the senate at large, and Nixon submits memos, and there is a lot of back and forth, and arguments before the entire senate.

Nixon is impeached, and attempts to appeal his impeachment to SCOTUS. Challenges based on the Senate having the sole power to try impeachments, and questions whether he was "tried" based on the fact that only a committee heard the evidence. Senate argues that this is a political question.

Statement of the Issue

Is Nixon's impeachment justiciable? (and if yes, was his impeachment properly conducted?)

Holding

Whether or not Nixon was "tried" in accordance with the constitution is a political question. (what? No! take it back!)

Reasoning

Nixon argues an interpretation of the words "sole" and "try" based on Art I sec 3 cl 6: "The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation...and no person shall be convicted without the concurrence of two thirds of the members present."

Try, according to Nixon, imposes an additional requirement on the senate in that the proceedings must be in the nature of a judicial trial...this precludes the senate from delegating a committee the task of hearing witnesses.

Try can mean something much more broadly than judicially try, and in any case they did judicially try.

Sole is of considerable interests to the court because they interpret it as a textually demonstrable commitment to the senate to try and to determine the manner of trying.

Sole means division of power, checks and balances between the house and the senate. The house has the sole power to accuse, and the senate the sole power to try, to keep either of them from just rampantly impeaching anyone. Further, there is evidence that this was meant to be kept out of the hands of justices, because if judges can be impeached and they are hearing the impeachment, it will

doom the courts to infamy (Hamilton). "Judicial involvement in impeachment proceedings, even if only for purposes of judicial review, is counterintuitive because it would eviscerate the "important constitutional check" placed on the judiciary by the framers."

Majority also cites a lack of reasonably discoverable ways to review the procedures, since this is an area where the senate is allowed to create their own procedures.

Evaluation

This is stupid. If there is no review of impeachment, that is problematic. If Senate is allowed to interpret "try" however they like, are they not taking over the (self-proscribed) judicial function of interpreting the constitution? What if they interpret try to mean hear the evidence of one witness against the impeached and to accept everything that one witness said as true?

Justices White and Blackmun write a concurring opinion to this effect, saying that it is not a political question, that the senate has wide discretion in choosing procedures and it is the job of the courts to make sure they don't overstep that discretion. However, Nixon was tried in line with constitutional requirements, so it is a concurrence in judgment (just not in reasoning).